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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,071	12/20/2001	Joseph R. Ward	D5216	9833

30409 7590 01/27/2004

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EXAMINER
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KERNS, KEVIN P

ART UNIT	PAPER NUMBER
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1725

DATE MAILED: 01/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

10/027,071

Applicant(s)

WARD, JOSEPH R.

Examiner

Kevin P. Kerns

Art Unit

1725

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 December 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1-5 and 9-14.Claim(s) withdrawn from consideration: 6-8 (cancelled).

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☐ Other: \_\_\_\_\_

Kiley Storer AU 1725  
1/20/04

Continuation of 5. does NOT place the application in condition for allowance because: claims 1-5 and 9-14 would remain rejected for the same reasons as set forth in paragraphs 4 and 6 of the final rejection mailed October 17, 2003. With regard to the applicant's arguments on pages 8-10 of the after final amendment, the examiner respectfully disagrees as follows (in addition to the prior comments/arguments addressed in the final rejection): in the table presented by the applicant on the top of page 9, the alloy combination taken in view of both references is not relevant to the claim rejections under 35 USC 103(a), as only the process step of adding silicon as an inoculant to a gray iron composition already containing silicon is to be considered with the alloy compositions disclosed in Tache, which is also applicable to dependent claims 3-5 and 11-13 due to homogeneity of the casting of alloy compositions of independent claims 1 and 9 (in addition, the conventional addition of silicon to molten gray iron is also disclosed as well known in the art in the background of Tache in column 1, lines 37-45, absent of any conventional alloy compositions). Furthermore, whether or not Ni and Cu is disclosed in Bostater et al. is not relevant due to the open-ended "comprised of" language of applicant's independent claims 1 and 9. As a result, claims 1-5 and 9-14 remain rejected for the same reasons set forth in the final rejection, with claims 6-8 now cancelled, for amendment entry in item 7 of this Advisory Action.